

Hearing Scheduled: July 22, 2010 at 10:00 a.m.
Objection Deadline: June 7, 2010 at 4:00 p.m.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Debtors.	:	
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	:	
DELPHI CORPORATION, et. al.	:	
	:	
Plaintiff,	:	
	:	
v.	:	Adv. Proc. No. 07-02800-rdd
	:	
BOSCH and ROBERT BOSCH GMBH,	:	
	:	
Defendants.	:	
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**ROBERT BOSCH GMBH AND ROBERT BOSCH LLC'S MOTION TO (A) VACATE
CERTAIN PRIOR ORDERS OF THE COURT; (B) DISMISS THE ADVERSARY
PROCEEDING COMPLAINT WITH PREJUDICE; AND (C) DISMISS THE CLAIMS
AGAINST A CERTAIN DEFENDANT ("BOSCH") NAMED IN THE COMPLAINT; OR
(D) IN THE ALTERNATIVE, REQUIRE PLAINTIFFS TO FILE A MORE DEFINITE
STATEMENT**

Defendants Robert Bosch GmbH (“**Bosch GmbH**”) and Robert Bosch LLC (“**Bosch LLC**”, and along with Bosch GmbH (the “**Defendants**”)), by their undersigned attorneys, for their Motion to (A) Vacate Certain Prior Orders of the Court; (B) Dismiss the Adversary Proceeding Complaint with Prejudice; and (C) Dismiss the Complaint Against a Certain Defendant (“Bosch”) Named in the Complaint; or (D) in the Alternative, Require Plaintiffs to File a More Definite Statement, rely on their accompanying memorandum of law (with attached exhibits) filed contemporaneously herewith.

WHEREFORE, Defendants seek an order from the Court:

- Vacating certain interlocutory extension orders pursuant to the Court’s discretionary authority because: (a) Debtors’ failure to provide Defendants with meaningful notice of the motions seeking entry of the extension orders violates due process and renders the extension orders void and unenforceable against Defendants; (b) cause did not exist to extend the time for service of the Complaint; and/or (c) the Complaint was improperly filed under seal pursuant to 11 U.S.C. §107;
- Dismissing with prejudice the Complaint against Defendants, pursuant to Fed. R. Civ. P. 12(b)(6), made applicable by Fed. R. Bankr. P. 7012(b), on the ground that it: (a) is barred by the 2-year statute of limitations; and/or (b) does not comply with the pleading requirements of *Ashcroft v. Iqbal*, 129 S.Ct. 1937 (2009);
- Dismissing defendant “Bosch” because it is not a person or entity, does not exist and, therefore, cannot be sued;
- Dismissing the Complaint with prejudice on the grounds that it is barred by laches, judicial estoppel or res judicata;
- In the alternative, as to any Defendant which is not dismissed, the Court should order Debtors to file a more definite statement with respect to its Complaint.
- Granting Defendants such other and further relief as is just and proper.

Respectfully submitted,

WARNER NORCROSS & JUDD LLP

Dated: May 14, 2010

By /s/ Michael B. O'Neal

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